



**Adamba v Republic (Miscellaneous Criminal Application
181 of 2018) [2025] KEHC 12444 (KLR) (8 August 2025) (Ruling)**

Neutral citation: [2025] KEHC 12444 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
MISCELLANEOUS CRIMINAL APPLICATION 181 OF 2018
RN NYAKUNDI, J
AUGUST 8, 2025**

BETWEEN

MARTIN ADAMBA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

M/s Sidi for the State

1. What is pending before this Court for determination is undated Notice of Motion Application in which the Applicant is seeking the following orders;
 - a. That the Applicant be granted leave to appeal out of time as per his application.
 - b. That the Appellant's appeal has high chances of success if heard and determined in time.
2. The Application is supported by the following ground;
 - a. That may this honorable court be pleased to find that the application is filed under the limits of law hence be heard and determined under section 165 (3) of CPC and which such other / more grounds to be adduced at the hearing thereof and the certificate of urgency (attached).
3. The Application is supported by the annexed affidavit sworn by the Applicant who avers as follows;
 - a. That I was charged, convicted and sentenced to serve 20 years' jail term that was awarded by Hon.C. Obulatsa at Eldoret law court 23-11-2018.
 - b. That, I did not lodge my appeal as the law provides before 14 days, because my representative i.e. lawyer had promised to lodge the same out of time.



- c. That, I hope this court has all preserved powers and discretion to admit me the same since fault wasn't mine.
- d. That, what I have deponed herein true and correct to the best of my knowledge information and belief.

Analysis and Determination

- 4. This application is about enlargement of time to enable the applicant to file an appeal. The applicable provisions which sets the timeline for one to file a criminal appeal follow within section 348 & 349 of the Criminal Procedure Code. The discretion to extend time is unfettered within the laid down parameters in the case of Nicholas Kiptoo Arap Salat (2014) eKLR which states as follows:
 - a. Extension of time is not a right of a party. It is an equitable remedy that is only available to as deserving party at the discretion of the court;
 - b. A party who seeks extension of time has the burden of laying a basis to the satisfaction of the court;
 - c. Whether the court should exercise the discretion to extend time, is a consideration to be made on a case to case basis;
 - d. Whether there is a reasonable reason for the delay. The delay should be explained to the satisfaction of the court;
 - e. Whether there will be any prejudice suffered by the respondents if the extension is granted;
 - f. Whether the application has been brought without undue delay; and
 - g. Whether in certain cases, like election petitions, public interest should be a consideration for
 - h. discretion to extend time upon which the intended appeal should be file for admission and hearing. The Deputy Registrar to supply the copies of typed proceedings to facilitate the applicant to prepare submissions for this case. Status conference on 23rd of September 2025. It is so ordered.

DATED, SIGNED AND DELIVERED VIA CTS AT ELDORET THIS 8TH AUGUST 2025

.....

R. NYAKUNDI

JUDGE

